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DISTRICT COURT CLERK  
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STEPHEN T. PACHECO

CD

STATE OF NEW MEXICO  
COUNTY OF RIO ARriba  
FIRST JUDICIAL DISTRICT

CORLINDA H. LUJAN,  
Plaintiff,

vs.

No. D-117-CV-2011-00521

ACEQUIA MESA DEL MEDIO, a NEW MEXICO  
Community Ditch Association, TEODORO (TED)  
CHACON, individually and as Mayordomo,  
ROSE M. LOVATO, individually and as Secretary/Treasurer,  
RICKY MARTINEZ, individually and as President, and  
LEONARD MORFIN, individually and as Commissioner,  
Of ACEQUIA MESA DEL MEDIO,  
Defendants

**ORDER GRANTING DEFENDANTS' MOTION TO DISMISS COMPLAINT FOR  
FAILURE TO JOIN NECESSARY PARTIES AND FOR LACK OF JURISDICTION**

THIS MATTER is before the Court on Defendants' *Motion to Dismiss Complaint for Failure to Join Necessary Parties and for Lack of Jurisdiction*. Having considered the motion, Plaintiff's response and Defendants' reply and having heard the argument of counsel on June 15, 2012, the Court finds the motion to be well taken and that the motion should be GRANTED as set forth below.

THE COURT FINDS the following:

1. Plaintiff's complaint seeks several declarations pursuant to the Declaratory Judgment Act.
2. The Declaratory Judgment Act requires that when a declaration is sought, "*all persons shall be made parties who have or claim any interest which would be affected by the*

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*declaration. . .*” NMSA 1978, 44-6-12 (1975).

3. Plaintiff has failed to join persons who have or claim an interest that would be affected by the declarations sought in her complaint.

4. Failure to name all persons who have or claim any interest that would be affected by the declaration deprives this court of subject matter jurisdiction.

5. In order to go forward, Plaintiff must join all persons who have or who claim any interest that would be affected by the declarations sought in Plaintiff’s complaint.

6. The following persons or entities have or claim an interest that would be affected by the declarations sought in Plaintiff’s complaint:

- a. All parcientes, or ditch members, of the Acequia Mesa del Medio;
- b. The commissions of the Acequia Mesa Poleo and the Acequia Pinabetal;
- and
- c. Jose Leandro Martinez and Magdalena Martinez.

7. Plaintiff should be given a reasonable opportunity to amend her complaint and to join the persons or entities that would be affected.

IT IS THEREFORE ORDERED that:

1. Plaintiff shall have the opportunity to amend her complaint to join persons and entities who have or claim an interest that would be affected by the declarations sought in Plaintiff’s complaint, as follows:

- a. All parcientes, or ditch members, of the Acequia Mesa del Medio;
- b. The commissions of the Acequia Mesa Poleo and the Acequia Pinabetal;

and


c. Jose Leandro Martinez and Magdalena Martinez.

2. Plaintiff has ninety (90) days from June 15, 2012 to amend her complaint and to make diligent attempts to serve the persons and entities joined.


3. Service shall be accomplished as provided for by Rule 1-004 NMRA.

4. Defendants will voluntarily give Plaintiff a list of current parcientes, or ditch members, of the Acequia.

5. Plaintiff shall have the opportunity for some discovery on the identity of persons and entities to be joined, if necessary.

  
HON. STEPHEN PFEFFER  
District Court Judge

Submitted by:

 6/20/2012  
Mary E. Humphrey  
Humphrey & Odé, PC

Attorneys for Defendants

Approved as to form:

Approved via electronic mail, 6/20/12  
Elizabeth Newlin Taylor  
Taylor & McCaleb, PA

Attorneys for Plaintiff